

UNITED STATES DISTRICT COURT
FOR DISTRICT OF COLUMBIA

MARK NORDLICHT,

PLAINTIFF,

v.

SECURITIES AND EXCHANGE COMMISSION,

DEFENDANT.

Case: 1:19-cv-02849
Assigned To : McFadden, Trevor N.
Assign. Date : 9/23/2019
Description: FOIA/Privacy Act (I - DECK)

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning disclosure of details of sensitive agency investigations by the former head of SEC enforcement, Andrew Ceresny to the media in calendar years 2014-2016. The defendant has improperly withheld this information from the plaintiff.

2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff, Mark Nordlicht, of 245 Trenor Drive, New Rochelle, NY 10804, is a private individual, the subject of one such investigation and is the requester of the records which defendant is now withholding. Plaintiff has requested the prompt release of the information.

4. Defendant, the Securities and Exchange Commission, is an agency of the United States, located at 100 F Street NE, Washington, DC 20549, and has possession of the documents plaintiff seeks.

5. By online submission dated January 30, 2019, plaintiff requested access to a copy of all communication-emails, texts and phone records between Former Director of Enforcement Andrew Ceresny and any member of the media from January 1, 2014 thru December 31, 2016.

6. By email dated February 7, 2019, the agency acknowledged the request and asked for clarification as to which specific media outlets were the subject of the request. A copy of said email is attached as Exhibit A.

7. By email later that day on February 7, 2019, defendant identified the media outlets sought as New York Times, Wall Street journal, Bloomberg, the New York Post and Reuters. A copy of said email is attached as Exhibit B.

8. By letter dated April 2, 2019, defendant acknowledged that there were 6180 emails that were responsive to the request. As a result of the voluminous amount of records, Defendant indicated that the request would be placed in their complex track and estimated that it may take the defendant 36 months to respond to a request in the "complex track." The letter invited the plaintiff to narrow his request in order to avoid being placed in the complex track. A copy of this letter is attached as Exhibit C.

9. In an effort to cut down the amount of records being requested between 75% and 85%, plaintiff narrowed the request to include "all communication-emails, texts and phone records from March 15, 2016 through August 15, 2016 between former Director of Enforcement, Andrew Ceresney, and any member of the New York Post, Wall Street Journal, Bloomberg or the New York Times." A copy of said email is attached as Exhibit D.

10. By email dated May 8, 2019 defendant indicated that records were being reviewed and that the hope was that there would be a response by early the following week. A copy of said email is attached as Exhibit E

11. After not hearing anything further, plaintiff followed up and received a further response ON June 18, 2019 indicating there were internal discussions ongoing and that while defendant did not have a definitive timeframe for meeting the request, the expectation was that the request would be completed soon. A copy of said email is attached as Exhibit F.

12. Despite several follow up emails by plaintiff, defendant has not produced any records and in fact, has stopped responding altogether without explanation.

13. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Grant such other and further relief as may deem just and proper.

Dated: September 12, 2019

Respectfully submitted,



MARK NORDLICHT